UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
TRAN, HAI V

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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 November 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-47</u> is/are pending in the application.

    4a) Of the above claim(s) <u>1-27 and 31</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>28-30. 32-47</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11/09/2006 have been fully considered but they are not persuasive.

Applicant argues (Applicant's remark, page 15), "It would not be obvious to one of ordinary skill in the art to modify Beyers for evaluation of conditional logic at a receiver because Beyers describes that receiver information is stored in a database at the headend (e.g., the system control computer) (Col. 16, lines 2-6). In addition, the database of receiver would not be compatible with the bitmap locking information described by Gordon. Adding conditional logic that is evaluated by a receiver based on receiver characteristic is inherently different from storing receiver characteristic information at a service provider headend."

In response, the Examiner respectfully disagrees with Applicant because Beyers clearly discloses the conditional logic including one or more rule that must be evaluated by the receiver based on receiver characteristics data representing a characteristic of the receiver (see Col. 9, lines 9-37, for example the examiner cites "... Transaction Type A is of finite length and may be considered to comprise a data packets of a plurality of bytes in a particular sequence and including at least apportion of a data stream which may *have a transaction code* associated therewith... Message data for display on an addressable subscriber terminal may be transmitted to subscribers using these transactions. Depending on the length of the messages, *the characteristic of the subscriber terminals* and the scramblers and other factors, the particular length and

arrangement of message data within these transactions may be varied to suit the

particular configuration.   A *transaction code* or *operand provides a command or*

instruction that the subscriber terminal (or terminals) addressed by the transaction is to

follow. The depicted data is for operation according to the *operand* or *transaction*

code...).   In view of that the Examiner maintains the rejection.

Applicant further argues, "...the method of Beyers is directed to storing

information about subscriber terminals at a headend. It would not have been obvious to

one of ordinary skill in the art to modify Byers for evaluation conditional logic at a

receiver because Beyers describes that receiver' s information is stored in a database at

the headends (e.g., the system control computer). (Col. 16, lines 2-6)."

In response, the Examiner confuses because there is no need for one of ordinary

skill in the art to modify Byers for evaluation conditional logic at a receiver because

Beyers himself already discloses the evaluation conditional logic is done at the receiver

(see Col. 9, lines 9-37). As such Applicant argument is moot.

Applicant further argues, "Even assuming that Beyers was not deficient, Beyers

teaches away from the use of the group information for conditional logic evaluated by

receivers by stating "Groups are not tied to any particular functionality within the

system... Therefore, the term "group" as used herein does not refer to a predetermined

class of subscriber terminals such as for instance, the class of subscriber terminals,

which support a particular feature like remote control..."

In response, the Examiner respectfully disagrees with Applicant because Beyers

clearly discloses the use of the group information for adding conditional logic (message

data) evaluated by receivers (see Col. 9, lines 23-37) and does not teach away, as

alleged by Applicant.

In conclusion, the Examiner maintains the rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 28-30, and 32-47 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Gordon by US 2001/0056577A1 in view of Beyers, II et al. (US 5381477).

Claim 28, Gordon discloses a method of broadcasting TV content and

program guide data (Fig. 1 and 2), the TV content (video sources) divided into a

plurality of TV channels (i.e., FOX... page 6,sect. 0065), each TV channel

constructed from at least one content component (page 6, sect. 0065), the program

guide data including multiple channel objects (page 5, sect. 0050), each channel

object (Fig. 1, el. 135; Fig. 11-14, el. 610-1..8), associated with one of the TV

channels (Fig. 11A-14; i.e. CNN associates with channel 5), each channel object (TV

program Icons, i.e. CNN), including at least one channel definition (i.e., video PID) that identifies the channel content components needed to construct the TV channel associated with that channel object for display (page 16, sect. 0155-0156 and page18, section 0184), wherein the method comprising:

Providing the TV content and the program guide data (Fig. 4);

Adding conditional logic to channel objects (page 9, sect.0088) that include more than one channel definition ("conditional logic" reads on Gordon's arranging bitmap information in different data blocks descriptors contain entitlement "locks" to corresponding channel object , i.e., PPV, VOD or subscription services like HBO, Showtimes, etc... see page 8, sect. 0085-0087 and page 9, section 0088 that include more than one channel definition, i.e., tile of the video program, that is allow displaying on the TV because Gordon' s arranged bitmap information is used to identify what types of access is allowed by comparing "locks" with a series of "keys" stored at the STB so to indicate what type of channels that user is entitled to receive for viewing for a particular STB . In doing so, Gordon receiver inherently uses conditional logic expression, i.e. Boolean, to evaluate the "conditional logic" based on the receiver unique terminal identification, see page 7 at § 0070) the conditional logic that must be evaluated by a receiver to identify a 1st channel definition or a 2nd channel definition, the 1st channel definition being associated wit a 1st video component or a 1st audio component, and the 2nd channel definition being associated with a 2nd video component or a 2nd audio component (the receiver with its unique terminal identification (page 7, sect. 0070) identifies which channel

definition associates with corresponding channel object that is allow displaying on the TV, i.e., PPV, VOD or subscription services like HBO, Showtimes, etc... see page 8, sect. 0085-0087 and page 9, section 0088);

Combining the TV content and the program guide data into an output stream (Fig. 4, el. 450); and broadcasting the output stream to a plurality of receivers (page 6, sect. 0062-page 7, sect. 0070).

Gordon does not specifically disclose that the conditional logic is evaluated by the receiver based on receiver characteristics data representing a characteristic of the receiver.

Beyers discloses the conditional logic including one or more rule that must be evaluated by the receiver based on receiver characteristics data representing a characteristic of the receiver (see Col. 9, lines 9-37). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gordon to include one or more rule that must be evaluated by the receiver based on receiver characteristics data into the conditional logic, as taught by Beyers, so to permit the system operator to able to target individual subscribers for inclusion in groups by means of certain selection criteria which characterizes a group, logically linking the criteria in a predetermined manner to form a group criteria definition statement, comparing the stored terminal criteria with the criteria definition statement, and assigning an individual or group of terminals to the group, as suggested by Beyer (Col. 2, lines 42-65+)

Claim 29, Gordon further discloses wherein one of the conditions contained in

the conditional logic of a channel object is further based on subscription data

representing channels to which a user subscribes (page 8, sect. 0084-0088).

Claim 30, Gordon further discloses wherein one of the conditions contained in

the conditional logic of a channel object is further based on selection history data

representing programs that a user has previously watched (page 9, sect 0098; page

15, sect 0144-0148; page 17, sect.0174).

Claim 32, Gordon further discloses wherein the receiver characteristic data

includes geographic location data representing a specific geographic location, and

one of the conditions contained in the conditional logic of a channel object is based

on the geographic location data (page 9, sect. 0098).

Claim 33, Gordon (page 7, sect. 0070) in view of Beyer (col. 17, lines 25-31;

Col. 33, lines 44-Col. 38-14) further discloses wherein the receiver characteristics

data includes at least one identification code that uniquely identifies a receiver, and

one of the conditions contained in the conditional logic of a channel object is based

on the identification code

Claim 34, Gordon (page 5, section 0057-059; page 8, sect. 0085 and page

10, sect 0102) in view of Beyer (col. 17, lines 25-31; Col. 33, lines 44-Col. 38-14)

further discloses wherein the conditions contained in the conditional logic of a

channel object is based on both the current time at the site of the receivers and

subscription data representing channels to which users of the receivers subscribe.

Claim 35, Gordon (page 5, section 0057-059; page 8, sect. 0085 and page

10, sect 0102) in view of Beyer (col. 17, lines 25-31; Col. 33, lines 44-Col. 38-14)

wherein one of the conditions contained in the conditional logic of a channel object

associated with a pay per view television channel is further based on the current

time at the site of the receivers and pay per view purchase data representing pay

per view programs that have been ordered by a user.

Claim 36, Gordon discloses a method of receiving television content and

program guide data that is broadcast from a television broadcasting station (Fig. 2),

the TV content (video sources) divided into a plurality of TV channels (i.e., FOX...

page 6,sect. 0065), each TV channel constructed from at least one channel content

component (video encoder of Fig. 4; page 6, sect. 0065), the program guide data

including multiple channel objects (page 5, sect. 0050), each channel object (Fig. 1,

el. 135; Fig. 11-14, el. 610-1..8) associated with one of the TV channels (Fig. 11A-

14; i.e. CNN associates with channel 5), each channel object (TV program Icons, i.e.

CNN), including at least one channel definition (i.e., video PID) that identifies the

channel content components including a video component or an audio component

needed to construct the TV channel associated with that channel object for display

(page 16, sect. 0155-0156 and page18, section 0184), each channel object with
more than one channel definition including conditional logic ("conditional logic" reads
on Gordon's arranging bitmap information in different data blocks descriptors contain
entitlement "locks" to corresponding channel object , i.e., PPV, VOD or subscription
services like HBO, Showtimes, etc... see page 8, sect. 0085-0087 and page 9,
section 0088 that include more than one channel definition, i.e., tile of the video
program, that is allow displaying on the TV because Gordon' s arranged bitmap
information is used to identify what types of access is allowed by comparing "locks"
with a series of "keys" stored at the STB so to indicate what type of channels that
user is entitled to receive for viewing for a particular STB . In doing so, Gordon
receiver inherently uses conditional logic expression, i.e. Boolean, to evaluate the
"conditional logic" based on the receiver unique terminal identification, see page 7 at
§ 0070), the method comprising:

Receiving the TV content and the program guide data by a receiver station
that includes a receiver;

Storing the program guide data in a memory 276 (sect. 0092);

Receiving a tuning request that selects a TV channel (page 3, sect. 0036);

Responding to the tuning request by evaluating the conditional logic (Gordon'
s arranged bitmap information is used to identify what types of access is allowed by
comparing "locks" with a series of "keys" stored at the STB so to indicate what type
of channels that user is entitled to receive for viewing for a particular STB . In doing
so, Gordon receiver inherently uses conditional logic expression, i.e. Boolean, to

evaluate the "conditional logic" based on the receiver unique terminal identification,

see page 7 at § 0070); and

Generating an output of the selected TV channel, the output including the

channel content components identified by the 1st channel definition or the 2nd

channel definition (page 5, sect-0056-page 6, sect. 0060 and page 7, sect.0075).

Gordon does not specifically disclose that the conditional is evaluated by the

receiver based on receiver characteristics data representing a characteristic of the

receiver.

Beyers discloses the conditional logic including one or more rule that must be

evaluated by the receiver based on receiver characteristics data representing a

characteristic of the receiver (see Col. 9, lines 9-37). Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to

modify Gordon to include one or more rule that must be evaluated by the receiver

based on receiver characteristics data into the conditional logic, as taught by Beyers,

so to permit the system operator to able to target individual subscribers for inclusion

in groups by means of certain selection criteria which characterizes a group, logically

linking the criteria in a predetermined manner to form a group criteria definition

statement, comparing the stored terminal criteria with the criteria definition

statement, and assigning an individual or group of terminals to the group, as

suggested by Beyer (Col. 2, lines 42-65+).

Claim 37 system/apparatus claim is analyzed with respect to method claim

36.

Claims 38-40, Gordon (page 8, sect. 0087-0088; page 9, sect. 0095-0098) in

view of Beyer (Col. 30-Col. 38, lines 14) further discloses wherein the 1st channel

definition comprises a channel definition defining channel content components

associated with a user who have purchased a program or an event, and wherein the

2nd channel definition comprises a channel definition defining channel content

components associated with a user who have not purchased a program or an event.

Claim 41, Gordon in view of Beyer (Col. 33, lines 44-63) further discloses

wherein the receiver characteristics data representing the characteristic of the

receiver indicates a model number associated with a receiver.

Claim 42, Gordon in view of Beyer (Col. 15, lines 27-46; Col.35, lines 55- Col.

38, lines 14 in which the operator is freely to configure the selection criteria

statement accordingly to the needs) wherein the conditional logic instructs the

receiver to select the first channel definition if the model number is greater than a

predetermined number and instructs the receiver to select the second channel

definition if the model number is less than the predetermined number.

Claim 43, Gordon in view of Beyer (Col. 15, lines 27-46; Col.35, lines 55- Col.

38, lines 14 in which software capability reads on one of the subscriber terminal

criteria/attribute/service code, as shown in various table of Fig. 9A-10B) wherein the

receiver characteristics data representing the characteristic of the receiver indicates

whether or not the receiver includes a software capability.

Claim 44, Gordon in view of Beyer (receiver characteristics data indicates

whether or not that receiver includes a hardware component, see Col. 25, lines 5-14)

wherein the receiver characteristics data representing the characteristic of the

receiver indicates whether or not that receiver includes a hardware component.

Claim 45, Gordon in view of Beyer (receiver characteristics data indicates a

status of the receiver, see Col. 25, lines 5-14) wherein the receiver characteristics

data representing the characteristic of the receiver indicates a status of the receiver.

Claim 46, Gordon in view of Beyer (Col. 33, lines 45-53) wherein the receiver

characteristics data representing the characteristic of the receiver indicates a model

number associated with a receiver.

Claim 47, Gordon in view of Beyer (Col. 33, lines 45-53) wherein the system

characteristics data representing the characteristic of the system indicates a model

number associated with the system.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
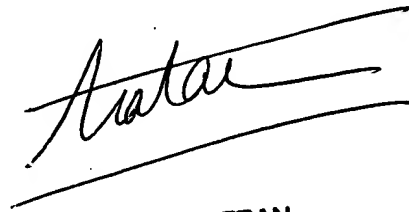
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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HT:ht
01/11/2007

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